

IN THE UNITED STATES DISTRICT
COURT FOR THE EASTERN DISTRICT
OF TEXAS TEXARKANA DIVISION

DOUGLAS N. MILLER

VS.

UNITED STATES OF AMERICA

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§

CIVIL ACTION NO. 5:15cv7

MEMORANDUM ORDER ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION

Petitioner Douglas N. Miller, formerly an inmate confined at the Federal Correctional Institution in Texarkana, Texas, proceeding *pro se*, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The Court referred this matter to the Honorable Caroline M. Craven, United States Magistrate Judge, at Texarkana, Texas, for consideration pursuant to applicable laws and orders of this Court. Before the Court is the Report and Recommendation of the Magistrate Judge, which contains her findings, conclusions, and recommendation for the disposition of the petition.¹ Docket No. 4. Petitioner's pleadings allege that the evidence was insufficient to sustain the charge against him and he was not provided with adequate advance written notice of the charge against him. *Id.* at 2. Petitioner was charged with losing a set of pliers, which caused production in a recycle factory to halt while a search was conducted for the tool. *Id.* at 1.

The Report and Recommendation issued on May 27, 2016 and recommended dismissing the petition for writ of habeas corpus. *Id.* at 6. With respect to Petitioner's argument that he received inadequate advanced written notice of the charges against him, the Magistrate Judge concluded that Defendant satisfied the requirement in *Wolff v. McDonnell*, 418 U.S. 539 (1974), which is determined independently from whether the prison's rules were followed. *Id.* at 4. Similarly, the Report and Recommendation concluded that Petitioner's evidence was insufficient

¹ A review of the Bureau of Prisons ("BOP") website indicates that Petitioner was released from the BOP on June 8, 2016 following the issuance of the Report and Recommendation. Petitioner has failed to provide the Court with a current address at which he may be served.

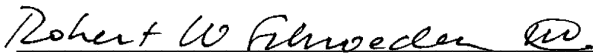
because the hearing officer found the statements of the warehouse foreman and Petitioner's supervisor were more credible than Petitioner's claims that it was an accident or someone else could have taken the pliers. *Id.* at 5. Additionally, Petitioner failed to show any prejudice regarding the claims presented in the petition. *Id.* at 5–6.

No written objections were filed. Having considered the Report and Recommendation for plain error, along with the record, pleadings, and all available evidence, the Court **ADOPTS** the findings and conclusions of the Magistrate Judge as those of the Court.

CONCLUSION

For the reasons stated above, the findings of fact and conclusions of law of the Magistrate Judge are correct, and the Report and Recommendation of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

So ORDERED and SIGNED this 10th day of August, 2016.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE